

Policy Approaches to Reduce What Commercial Health Insurers Pay for Hospitals' and Physicians' Services

November 14, 2022

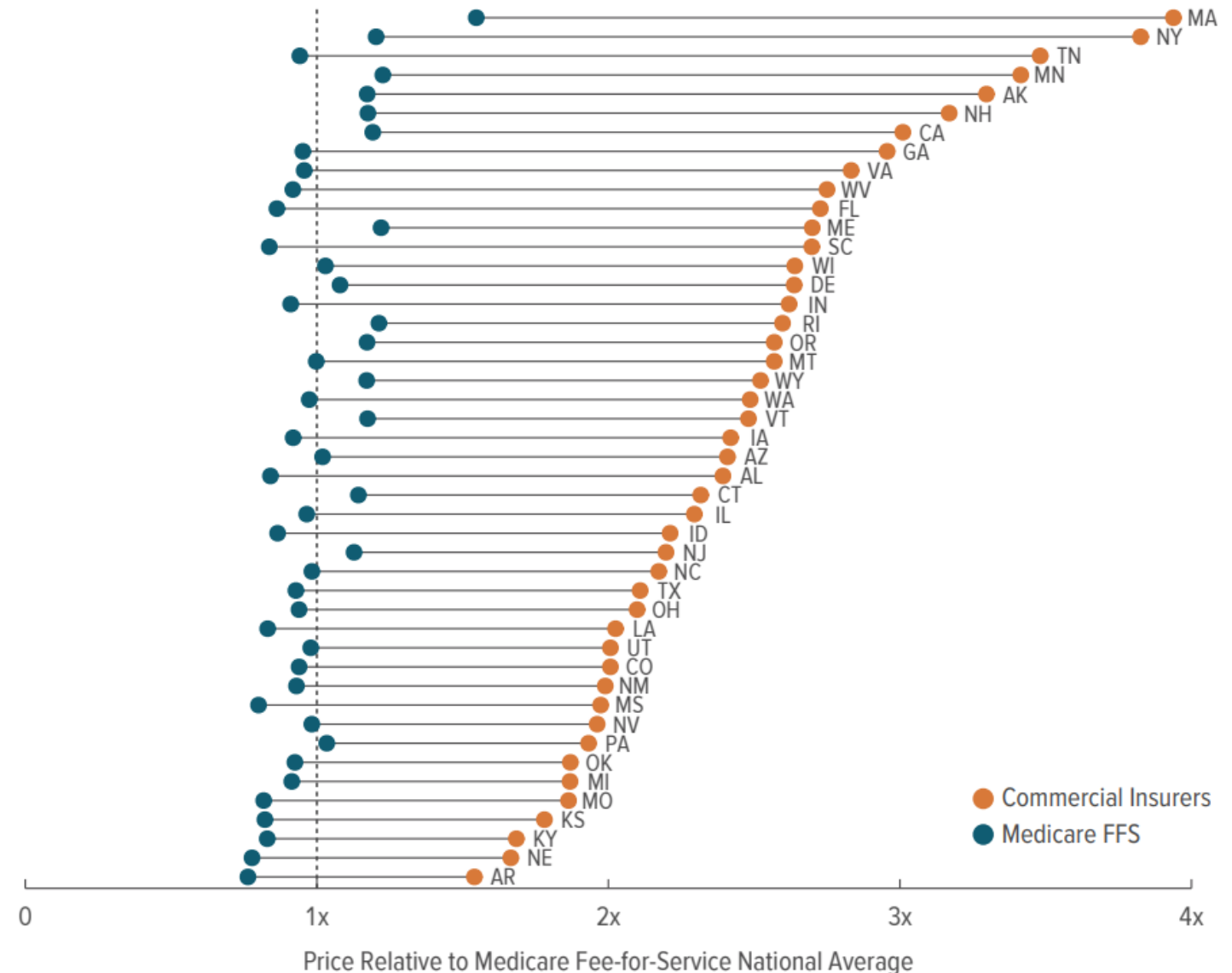
Dartmouth Symposium on Health Care Delivery Science

Michael Cohen, Daria Pelech, and Karen Stockley
Health Analysis Division

Motivations for This Report

- The prices commercial insurers pay to providers are much higher (on average) than the prices paid by Medicare and other payers
- Prices are a key driver of health insurance premiums for people under 65, the cost of which is paid by
 - Individuals
 - Employers
 - The federal government (\$405 billion in 2022)
- The Congress is interested in policies that would reduce prices and, subsequently, premiums

Average Prices for Hospitals' Inpatient Services, by State, 2018



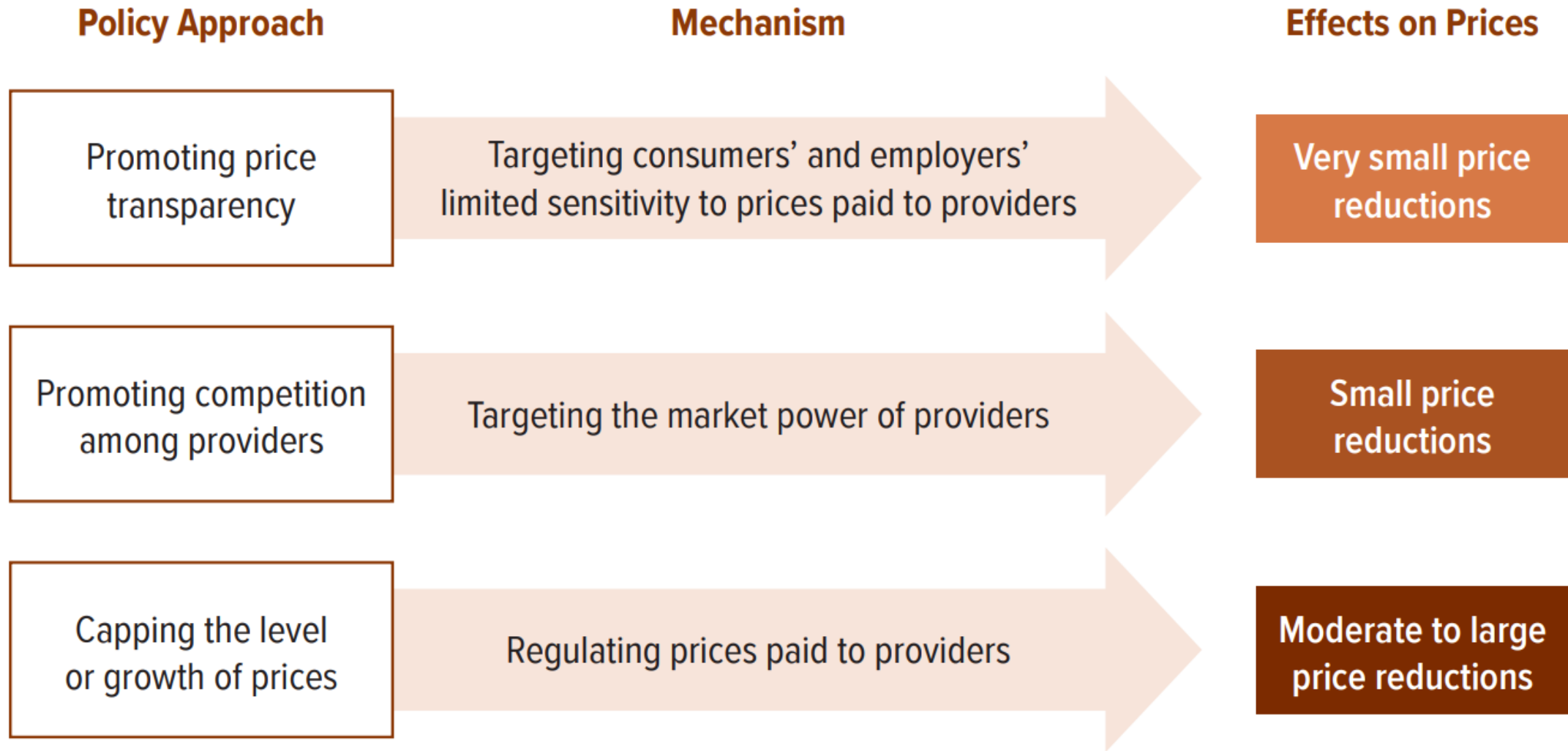
Questions the Report Answers

- How high are commercial insurers' prices?
- Why are they high?
- What policies could reduce prices?
- How much would those policies reduce prices?
- What are the effects on the federal budget?

Policies Included in the Report

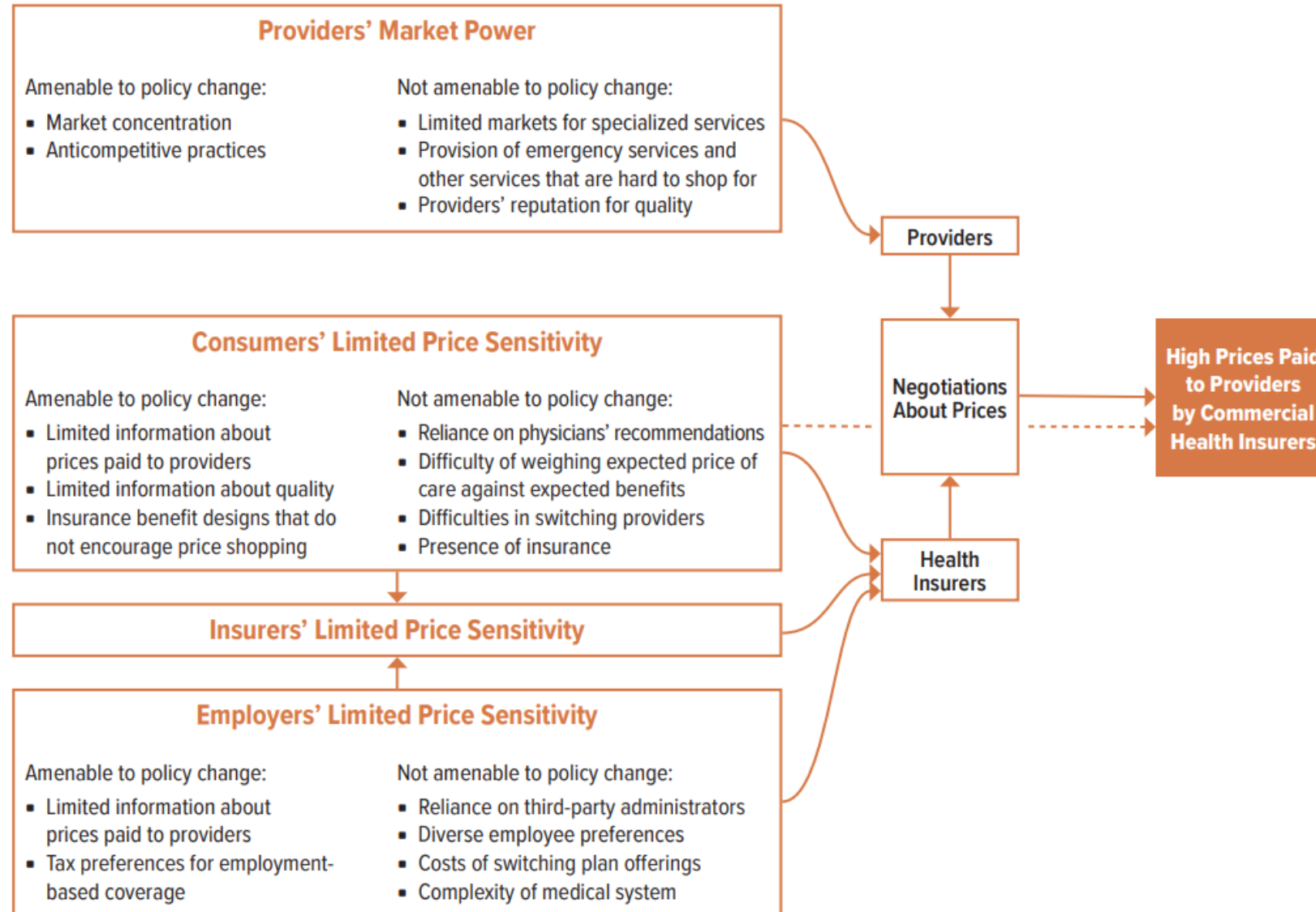
- Main analysis focuses on policies that target the underlying causes of high prices, or directly regulate prices, and that are available to the Congress
 - Prices for hospitals' and physicians' services (not drugs)
 - Commercial insurers = employment-based and nongroup plans
- Policies were identified by reviewing state laws, draft federal legislation, policy proposals, and published articles from the last ~10 years
- Policies were grouped into three categories
 - Provider competition
 - Price transparency
 - Price caps
- Appendixes include brief discussions of other, related policies
 - Federal policies that could reduce prices less directly
 - Policies available to other actors: states, employers, federal agencies

Main Findings

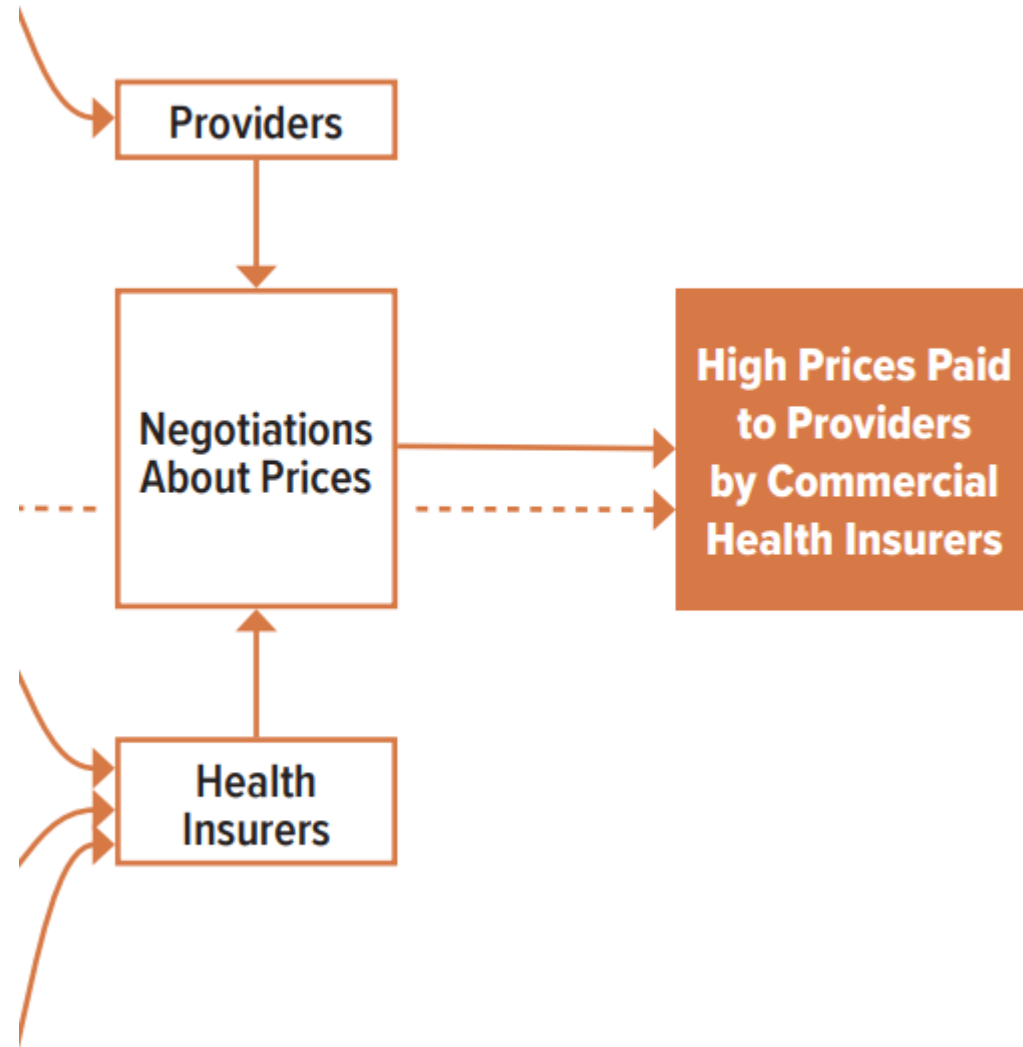


Factors That Lead to Commercial Insurers' High Prices for Hospitals' and Physicians' Services

Factors That Lead to High Prices



Prices Are Negotiated Between Providers and Insurers



Market Power Contributes to High Prices

Providers' Market Power

Amenable to policy change:

- Market concentration
- Anticompetitive practices

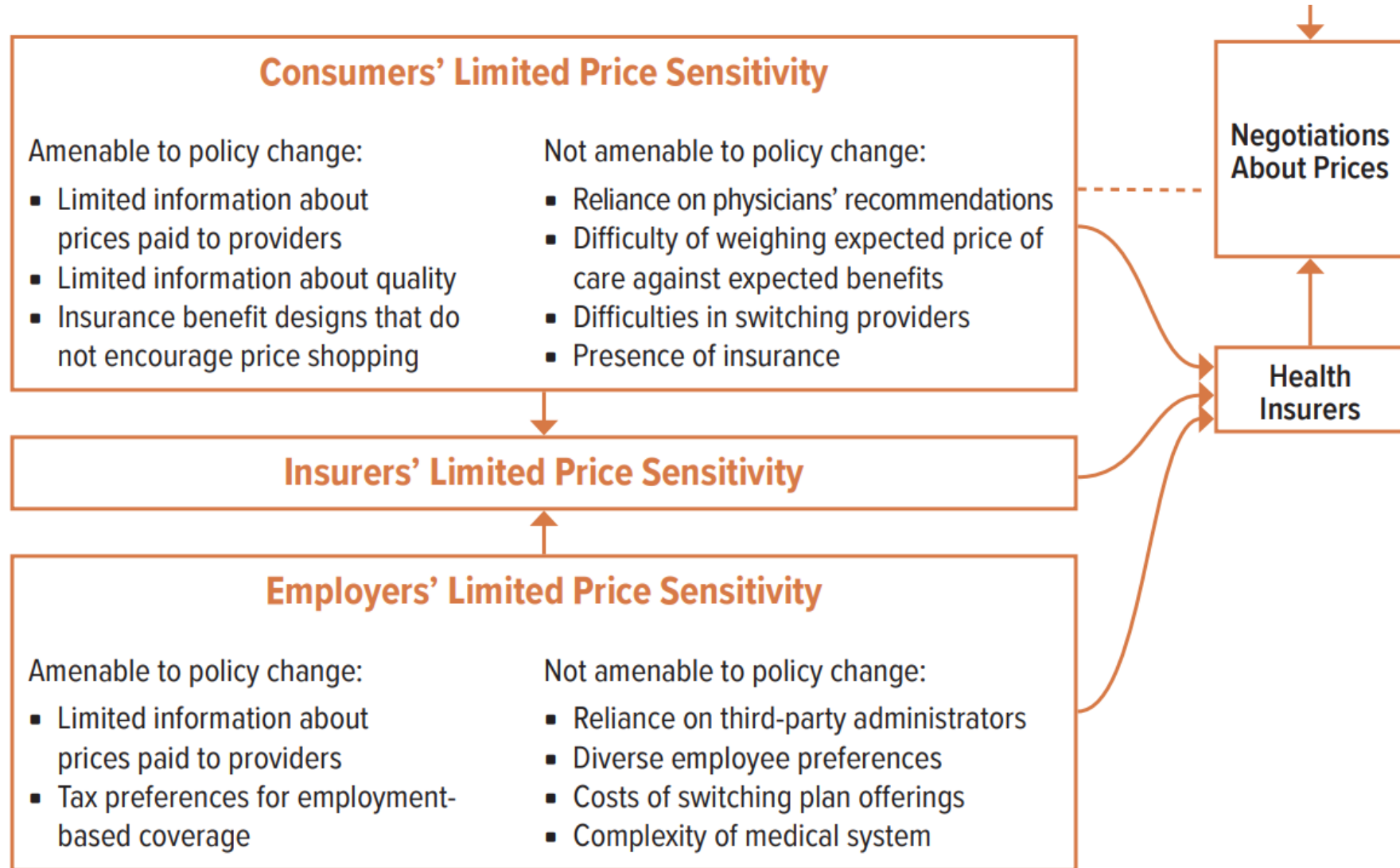
Not amenable to policy change:

- Limited markets for specialized services
- Provision of emergency services and other services that are hard to shop for
- Providers' reputation for quality

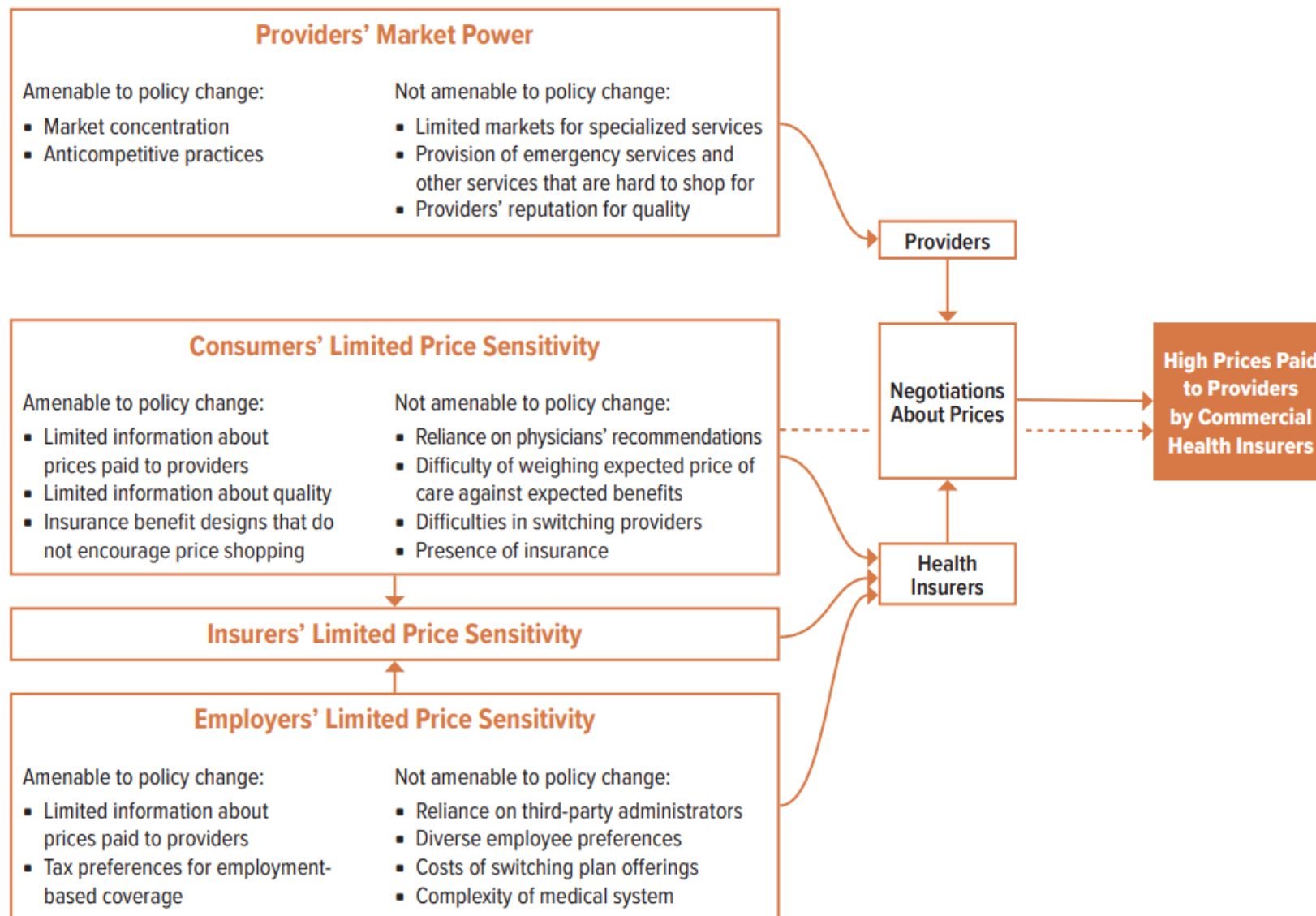
```
graph LR; A["Providers' Market Power"] --> B["Providers"]
```

Providers

Limited Price Sensitivity Contributes to High Prices

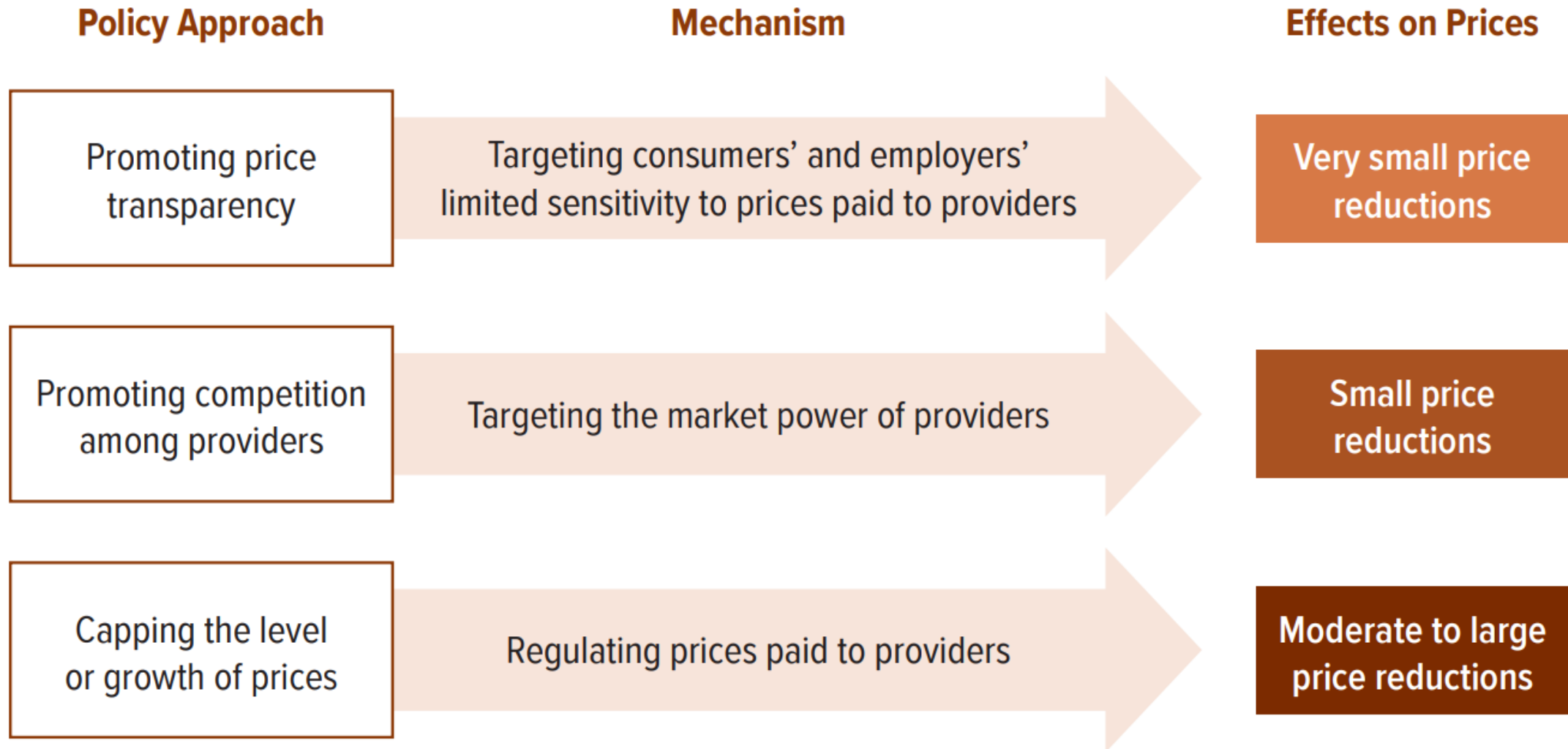


Factors That Lead to High Prices



Policy Approaches to Reduce the Prices Paid to Providers by Commercial Insurers

Three Groups of Policies



Federal Legislative Policies to Promote Competition**

Policy Type	Examples
Enhance antitrust enforcement	<ul style="list-style-type: none">• Increase the funding, scope, or enforcement abilities of the Federal Trade Commission (FTC) or Department of Justice• Amend antitrust laws• Lower the statutory reporting threshold for premerger filings• Allow the FTC to investigate nonprofits' behavior
Reduce providers' incentives to consolidate	<ul style="list-style-type: none">• Expand site-neutral payments in Medicare• Reform 340b drug discount program• Streamline data transfer or otherwise lower providers' administrative costs
Increase providers' job mobility	<ul style="list-style-type: none">• Limit noncompete agreements (NCAs) for providers
Limit anticompetitive contracting	<ul style="list-style-type: none">• Eliminate anti-tiering clauses in contracts between providers and insurers• Ban all-or-nothing contracting

**Additional policies are available to states or federal agencies, as discussed in an appendix

Policies to Promote Price Transparency

- Strengthen or expand existing regulations about transparency
 - Hospitals and insurers are currently required to disclose prices publicly in machine-readable format on a government website
 - Providers are required to give patients a good-faith estimate of costs
 - Lawmakers could
 - Increase the penalties for noncompliance
 - Standardize data formats
- Set up a federal all-payer claims database (APCD)
 - Provide standardized information about prices using the APCD, perhaps with a public website and reporting tool
 - Provide information from the APCD to federal agencies
 - Perhaps include data on quality of providers' services

Few hospitals provide the public with payer-negotiated rates

Among the two largest hospitals in each state and D.C. (102 hospitals), the number and share that provide prices for health services on consumer tools and machine-readable files

	Consumer tool	Machine-readable file
Gross charge	80 hospitals (78%)	83 hospitals (81%)
Discounted rate (uninsured/self-pay rate)	57 hospitals (56%)	43 hospitals (42%)
Payer-specific negotiated rates (2 or more payers)	3 hospitals (3%)	35 hospitals (34%)

Notes: Hospitals were counted as providing prices if they were accessible without having to personally identifying information or insurer ID information. Hospitals were counted as providing payer-specific negotiated rates if they provided rates for 2 or more payers. See Methods.

Source: KFF analysis of price transparency files and tools on the public websites of the two largest hospitals in each state and D.C. • [Get the data](#) • [PNG](#)

Peterson-KFF
Health System Tracker

Policies to Cap Prices

- Cap the level or annual growth of prices or tax prices above a certain threshold. Below the cap or tax threshold, negotiated prices would prevail.
- Design choices include
 - Capping prices at a percentile of the distribution of prices paid by commercial insurers or at a multiple of Medicare's prices
 - Capping growth at a fixed percentage or using a benchmark (such as Medicare's market-basket index)
 - Capping prices for all services or for a subset (such as only out-of-network services or hospitals' services)
 - Applying the cap to a narrower set of geographic areas or plans
 - More expansively, applying the cap to all spending for hospitals' services, physicians' services, or both

The Distribution of Prices Is Often Skewed

C-Section Delivery DRG 766

10th Percentile, Median, and 90th Percentile Prices for Select Metro Areas



Example Metro Area

Boston, MA

Choose Example Metro

Boston, MA

Metros with the smallest range in prices

Knoxville, TN
Columbus, OH
San Antonio, TX
Louisville, KY
Tulsa, OK

Metros with the largest range in prices

Los Angeles, CA
Boston, MA
San Diego, CA
San Jose, CA
San Francisco, CA



Analyzing Effects on Prices

- CBO assessed how each group of policies would affect prices
 - After adopting the most comprehensive version of each group
 - In the first 10 years after enactment
 - After all parties had a chance to react
 - Relative to the projected trajectory for prices under current law

Effects of Federal Policy Approaches on the Prices Paid by Commercial Insurers for Hospitals' and Physicians' Services

Policy Approach	Mechanism	Effects on Prices Within First 10 Years After Enactment
Promoting competition among providers	Targeting the market power of providers	Small price reductions: 1 percent to 3 percent
Promoting price transparency	Targeting consumers' and employers' limited sensitivity to prices paid to providers	Very small price reductions: 0.1 percent to 1 percent
Capping both the level and growth of prices	Regulating prices paid to providers	Moderate or large price reductions: either 3 percent to 5 percent or over 5 percent (depending on cap design)

Reasons Underlying the Effects on Prices

- Why do competition and transparency have small effects?
 - There are many reasons for limited effectiveness, including that the effects of increased antitrust enforcement would take longer to materialize, and consumers have shown limited response to price-transparency initiatives
 - It is hard to target the causes of high prices: Many sources of providers' market power and consumers' and employers' insensitivity to prices (such as the complexity of the medical system and patients' reliance on physicians' recommendations) are not amenable to change by policy
- Why do price caps have variable effects?
 - The effects hinge heavily on how the caps are specified: how high the caps are set, what services they apply to, and their enforcement
 - Price caps can have large effects because they are regulating the end result, not the mechanisms that push up prices

How CBO Analyzed the Effects of the Policy Approaches on Prices

Policies to Promote Competition Among Providers

Sum of three separate estimates:

- Policies that restrict anticompetitive contracting
 - Started with estimates for provisions included in the 2019 Lower Health Care Costs Act
 - Adjusted for more recent evidence on the effects of tiered networks on spending
- Policies that ban or weaken employment-based noncompete clauses
 - Started with estimates from a study of the relationship between enforceability of noncompete clauses and prices for physicians' services (Hausman and Lavetti, 2021)
 - Adjusted for the share of overall spending and the comprehensiveness of a national ban relative to the state-level changes included in that study
- Remaining policies that would prevent future increases in market concentration
 - Estimated the elasticity of prices with respect to market concentration (as measured by HHI) based on selected studies
 - Assumed no more than a quarter of recent increase in HHI could be averted

Policies to Promote Price Transparency

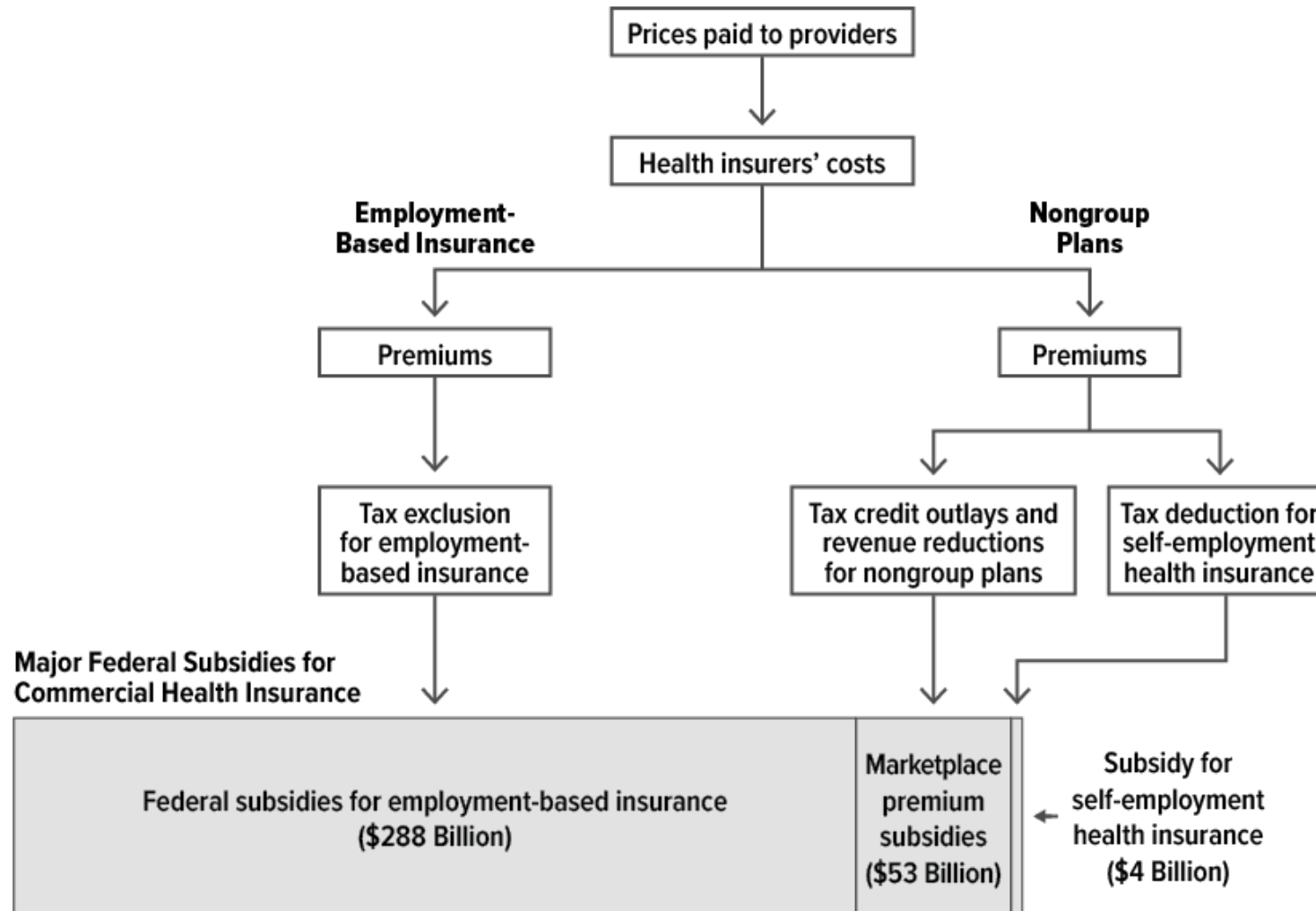
- Started with estimates from a study of New Hampshire after it introduced a price-shopping tool using data from its state-level APCD in 2007 (Brown, 2019)
- Adjusted for
 - Increased transparency of negotiated prices because of federal regulations
 - The scope of services whose prices would be affected
 - Additional effects of making APCD data available to other parties
- Found no meaningful price reductions from policies that expand, refine, or codify existing federal regulations
 - Under current law, CBO expects existing regulations to increase price transparency over the next 10 years
 - CBO estimates no budgetary effects from codifying existing federal regulations

Policies to Cap the Level or Growth of Prices

- The size of the effect depends on two key design considerations
 - The level of the cap
 - The services that are subject to the cap
- Estimates by other researchers found that price caps, if applied broadly, would reduce prices by at least 3 percent to more than 5 percent, depending on the design of the cap (RAND, 2020; Chernew, Dafny, and Pany, 2020)
- In isolation, several price-cap policies that CBO reviewed would have smaller effects
 - Capping prices in the nongroup market (Song, 2021)
 - Capping only out-of-network prices
- Those assessments incorporate substantial enforcement of the caps

How Policies That Reduce Prices Paid by Commercial Insurers Would Affect the Federal Budget

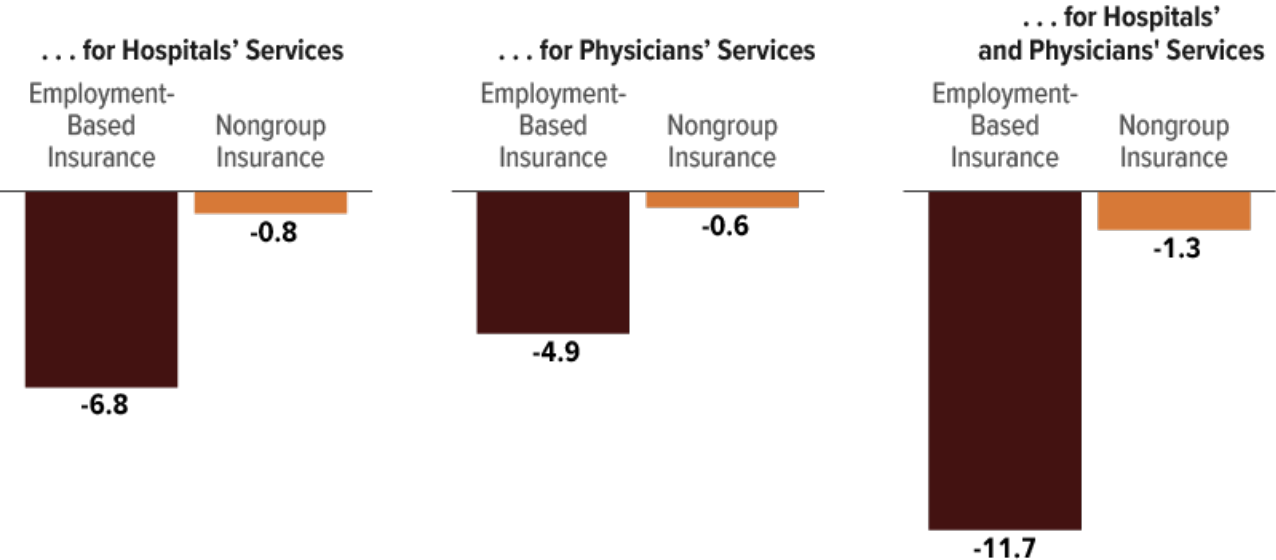
How Commercial Insurers' Prices Affect the Federal Budget



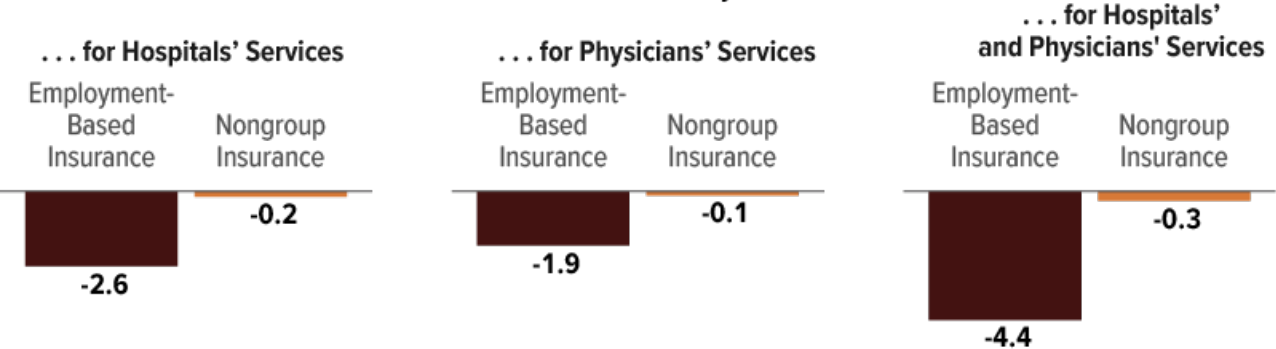
The federal tax code subsidizes commercial insurance through several channels, chiefly through spending on premiums (as opposed to out-of-pocket spending). Lower prices paid by commercial insurers would reduce those subsidies, although there could be some offsetting effects.

Budgetary Effects of an Illustrative Policy That Would Reduce Commercial Prices by 1 Percent in 2032 (In billions of dollars)

Total Reduction in Health Insurance Premiums If Prices Were Reduced by 1 Percent . . .



Total Reduction in Federal Subsidies for Health Insurance Premiums If Prices Were Reduced by 1 Percent . . .



CBO estimates that under current law, hospitals and physicians would be paid \$1,473 billion by commercial insurers in 2032. If the prices paid by those insurers were reduced by 1 percent, premiums for commercial plans would decline by a total of \$13 billion in 2032, reducing federal subsidies for those premiums by \$4.8 billion.

Q & A

Why Does Competition Have a Small Effect?

- Markets for hospitals' and physicians' services are highly concentrated already
- Some policies (such as banning anticompetitive contracting) are difficult to enforce
- Effects of increased antitrust enforcement would take longer to materialize
- Antitrust law generally only forestalls further consolidation, it does not reduce existing consolidation
- Market concentration is not the sole source of providers' market power

Why Does Price Transparency Have a Limited Effect?

- Evidence suggests that consumers' and employers' responses to price information are modest. A significant portion of the estimated response comes from insurers' and providers' renegotiating prices after their disclosure
- Many of the things that make consumers insensitive to prices (such as the complexity of the medical system and reliance on physicians for recommendations) will remain
- Regulations on transparency already exist, so the scope to further improve them is dampened
- Transparency has less of an effect in concentrated markets

Effects of Price Caps Are Highly Uncertain

- The size of the effects hinges crucially on the caps' design
- To have an effect, caps would need to be lower than at least a small percentage of prices
- Enforcement mechanisms matter greatly
- Implementation (including accommodation of nonstandard contracts) would be difficult